IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

THURSDAY, THE 31ST MAY 2007 / 10TH JYAISHTA 1929

WP(C).No. 10346 of 2007(F)

OS.24/1980 of SUB COURT, MAVELIKKARA

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PETITIONER:

HYDROSEKUNJU ABDUL LATHEEF,
USHUS HOUSE, PERUNGALA, KAYAMKULAM.

BY ADV. SRI.V.V.ASOKAN
SMT.S.AMINA

RESPONDENTS:

KUNJU PILLAI PANICKER SADANANDAN,
PANAYIL NAMPARUVIKALA,
KARUNAGAPPALLY.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 31/05/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.K. DENESAN, J.

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W.P.(C) No. 10346 OF 2007 F
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Dated this the 31st May, 2007

J U D G M E N T

This writ petition is preferred against the order of the Subordinate Judge, Mavelikkara in E.A. No. 775/03 in E.P. No. 140/90 in O.S. No. 24/80. The petitioner is the 2nd judgment debtor in the suit against the counter petitioner. It is seen from the order that there was a litigation with respect to 17 cents of property for specific performance of the contract. The contention of the petitioner is that he is a bonafide purchaser for valuable consideration of 3 cents of land. This Court did not hold in favour of the petitioner. Therefore, he preferred a Special Leave Petition before the Hon'ble Supreme Court of India and the Apex Court ordered status quo. Thereafter an application was filed by the decree holder for delivery of the remaining 14 cents of property. It was contended in that case that the status quo order relates to the entire property and therefore delivery cannot be ordered. The matter came up before this Court on earlier occasion also and this

Court had opined that the status quo at the most can relate to the 3 cents of property over which the petitioner claims right. Overruling the objections of the judgment debtors the court ordered delivery of 14 cents of property and it is for redelivery of that property the present writ petition is filed. The petitioner has moved the court for restoration of possession of 14 cents of land which had already been delivered by the order of the court. It has to be held that the interest which the petitioner claims over the property is of 3 cents which he had acquired by virtue of an assignment deed. Though this Court had repelled his contention, the Apex Court had admitted his S.L.P. and ordered status quo. So far as the present petitioner is concerned the subject matter of the appeal can only be with respect to 3 cents of property over which he claims right. The executing court has understood the order of the Apex Court only in that way and had excluded the 3 cents of property claimed by the petitioner and had ordered delivery of the remaining 14 cents of property. It is to restore that 14 cents now the present application is filed. As stated earlier,

since the petitioner can have right only over 3 cents of property and that 3 cents of property is kept intact and the balance land is ordered to be delivered and that had been delivered. The prayer for the restoration with respect to that 14 cents had been negatived. I feel, the court below had only acted in accordance with law and in tune with the direction of the Supreme Court of India and therefore the order passed does not suffer from any infirmity and therefore the writ petition is dismissed.

M.N. KRISHNAN
JUDGE

jan/